

## MEMO ENDORSED



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Defendants shall reply by 12/3/13. Issues will be addressed at previously-scheduled conference on November 22, 2013 12/10/13 @ 10:00 a.m. in Courtroom 420.

**BY TELECOPY****(914) 390-4256**

Hon. Paul E. Davison,  
United States Magistrate Judge  
U.S. District Court, Southern District of New York  
300 Quarropas Street  
White Plains, New York 10601-4150

SO ORDERED  
  
Hon. Paul E. Davison  
United States Magistrate Judge  
11-25-13

Re: Transeo S.A.R.L. et al. v. Bessemer Venture Partners VI L.P., et al., 11 CV 5331  
(CS)(PED)

Dear Magistrate Judge Davison:

This firm represents plaintiffs Transeo S.A.R.L. and Philippe Gelblat in the above-referenced action.

As mentioned during the discovery conference on November 12, 2013, Plaintiffs have been consulting with a French law firm regarding EU Data Privacy laws. It appears that, pursuant to the French data protection act, no data may be transferred from the EU to the United States until such transfer is approved by the French data protection authority (the "CNIL"). Such approval could take a matter of weeks or a matter of months, depending upon the process chosen by the parties. The most expeditious option requires that (i) each party (and each third party that would be a recipient of such information) sign certain protective contractual clauses set forth by the European Commission, and (ii) a declaration attesting to such signature be filed with the CNIL. Upon receipt of confirmation from the CNIL of adherence to the EU Data Privacy laws (a process that we are told should take no more than a few weeks), the parties may then exchange documents and information relating to EU citizens.

Based on this information, Plaintiffs are willing to develop a mutually-acceptable form of confidential protective order with the Defendants that incorporates the contractual clauses set forth by the European Commission (attached). These Safe Harbor provisions are explained on the U.S. Commerce Department website: [www.export.gov/safeharbor](http://www.export.gov/safeharbor). The parties would have to



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agree to separately execute these clauses and Plaintiff would have to file the executed provisions with the relevant French government agency.

We respectfully request that the parties consider this practical solution and familiarize themselves with the EU provisions, and then have a follow-up call with Your Honor to see if this alternative to motion practice will satisfy the needs of each side in this case.

We respectfully ask Defendants' counsel (also by this letter) to consult with their clients on this question and to let us know directly whether they can agree to this treatment of data resident in the European Union.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Thomas P. Battistoni', followed by a large, stylized flourish or initial.

Thomas P. Battistoni  
Philippe C.M. Manteau

cc: Andrew Berdon, Esq. (by fax)  
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